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UNIVERSAL CITY STUDIOS LLC and
NBCUNIVERSAL MEDIA, LLC

IN THE UNITED STATES DISTRICT COURT
THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

STEVE WILSON BRIGGS,

Plaintiff,

v.

UNIVERSAL CITY STUDIOS LLC;
NBCUNIVERSAL MEDIA, LLC;
SONY PICTURES ENT INC.; KEVIN
SPACEY; ARI (ARIEL) EMANUEL; MATT
DAMON; BEN AFFLECK; NEILL
BLOMKAMP; MORDECAI (MODI) WICZYK;
ASIF SATCHU; BILL BLOCK; DANA
BRUNETTI; MRC II DISTRIBUTION
COMPANY LP (AKA MRC, Media Rights
Capital, and all other MRC entities and
subsidiaries)

Defendants.

Case No. 17-cv-06552-VC

[Hon. Vince Chhabria]

**NOTICE OF MOTION AND MOTION
TO CONTINUE CASE MANAGEMENT
CONFERENCE AND EXTEND CASE
MANAGEMENT SCHEDULE (L.R. 16-
2(d)); MEMORANDUM OF POINTS AND
AUTHORITIES**

(Proposed Order, Declaration Of Brendan N.
Charney With Exhibit A Filed Concurrently)

Date: March 15, 2018
Time: 10:00 a.m.
Crtrm: 4

1 PLEASE TAKE NOTICE that on March 15, 2018, at 10:00 a.m., or as soon thereafter as
 2 counsel may be heard, in Courtroom 4 of the above-entitled court, located at the Phillip Burton
 3 Federal Building & United States Courthouse, 450 Golden Gate Ave., San Francisco, California,
 4 94102, the Honorable Vince Chhabria presiding, Defendants Universal City Studios LLC and
 5 NBCUniversal Media, LLC (collectively, “NBCU”) will and hereby do move this Court to grant
 6 NBCU relief from case management obligations under N.D. Cal. Local Rule 16-2(d), and, in
 7 particular, to continue the Case Management Conference currently set for February 13, 2018
 8 until **June 12, 2018** – or, in the alternative, to at least 30 days after the hearing on NBCU’s
 9 pending dispositive Motion to Dismiss the FAC (ECF No. 26) – and to extend the case
 10 management schedule accordingly. This Motion is brought on the following grounds:

- 11 a. It is impossible for the parties to have a productive case management discussion
 12 because, as set forth in NBCU’s pending Motion to Dismiss the First Amended
 13 Complaint (“FAC”), the FAC is unintelligible; therefore it is not possible to create a
 14 discovery plan, arrange for initial disclosures, or discuss other aspects of discovery or
 15 the preservation of evidence because the FAC does not identify any wrongdoing by
 16 NBCU that could inform the scope of discovery in this case; for similar reasons, the
 17 unintelligibility of the FAC makes it impossible to discuss alternative dispute
 18 resolution or to plan the schedule of the case; and
- 19 b. Judicial economy and the efficient and proportional use of the parties’ resources will
 20 be served by deferring case management procedures until after the Court has had an
 21 opportunity to rule on the pending dispositive Motions to Dismiss filed by NBCU and
 22 the other defendants in this action and, if warranted, any motion to dismiss the second
 23 amended complaint if Plaintiff is given another opportunity to attempt to state a claim
 24 against Defendants.

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1 This Motion is based on the attached Memorandum of Points and Authorities and
2 Declaration of Brendan N. Charney With Exhibit A; the pleadings, files and records in this
3 action; and upon such other arguments as may be received by this Court at the hearing on this
4 Motion.

5 Respectfully submitted this 30th day of January, 2018

6 DAVIS WRIGHT TREMAINE LLP
7 KELLI L. SAGER
8 ROCHELLE L. WILCOX
9 BRENDAN N. CHARNEY

10 By: /s/ Rochelle L. Wilcox
Rochelle L. Wilcox

11 Attorneys for Defendants
12 UNIVERSAL CITY STUDIOS LLC and
13 NBCUNIVERSAL MEDIA, LLC
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MEMORANDUM OF POINTS AND AUTHORITIES

**I.
SUMMARY OF ARGUMENT**

Defendants Universal City Studios LLC and NBCUniversal Media, LLC (collectively, “NBCU”) bring this Motion to extend the Case Management Conference, as well as the corresponding discovery and other obligations, because Plaintiff’s Complaint is unintelligible and also fails to state a claim against Defendants, rendering a productive case management conference impossible and unnecessary.

Plaintiff’s rambling and baseless pleadings give NBCU no notice of the wrongs it allegedly committed. NBCU cannot identify the legal or factual basis for Plaintiff’s claims, and as a result, it cannot begin to evaluate the potential scope of discovery, options for alternative dispute resolution, or the appropriate schedule for this case. Plaintiff nonetheless demands that NBCU and the other defendants engage in fruitless case management discussions about claims that cannot be understood – and that they do so before the Court has had an opportunity to rule on dispositive Motions to Dismiss filed by both sets of defendants in this action.

Because these Motions seek to dismiss this action with prejudice on the grounds that Plaintiff’s First Amended Complaint is unintelligible, and that it is legally barred on multiple grounds, continuing the CMC until after these Motions are heard will serve judicial economy and protect the Defendants from being required to incur fees and costs on discovery and case management requirements that ultimately should be unnecessary.

NBCU proposed to Plaintiff that the parties stipulate to move the CMC until after the Motions to Dismiss are heard, as contemplated by this Court’s Civil Standing Order. Plaintiff, however, refused to cooperate in this request, forcing NBCU to bring this Motion.

Therefore, good cause exists to continue the Case Management Conference until June 12, 2018, or, in the alternative, at least 30 days after the February 22, 2018 hearing on Defendants’ Motions to Dismiss the First Amended Complaint.

II.
SUMMARY OF PERTINENT FACTS AND PROCEDURAL HISTORY

As set forth in greater detail in NBCU's pending Motion to Dismiss Plaintiff's First Amended Complaint (ECF No. 26) ("FAC") and NBCU's Opposition to Plaintiff's Motion for Sanctions (ECF No. 32), this lawsuit appears to allege that competing film studios and prominent individuals in the film industry engaged in some undefined "conspiracy" that purportedly relates in some way to Plaintiff's previous lawsuit against some of the same defendants sued in this action (Briggs v. Blomkamp, N.D. Cal. No 13-cv-04679).¹

Defendants in this action have twice moved to dismiss this case on the grounds that the initial Complaint and the FAC are both unintelligible. Specifically, on December 28, 2017, NBCU joined a Motion to Dismiss filed by the other defendants in this action, seeking dismissal of the Complaint with prejudice for, among other grounds, failure to provide a short and plain statement of the claim under Rule 8(a), and failure to state a claim under Rule 12(b)(6). ECF Nos. 15, 17. After Plaintiff amended the Complaint (ECF No. 21) a few days after the filing of the Motion to Dismiss, NBCU filed a new Motion to Dismiss the First Amended Complaint ("FAC") with prejudice, arguing, among other grounds, that the FAC remains unintelligible and therefore fails again under Rules 8(a) and 12(b)(6). ECF No. 26 at 3-4. The other defendants in the action also moved to dismiss the FAC as unintelligible (among other grounds). ECF No. 27.

Plaintiff also moved to sanction counsel for NBCU and the other defendants for filing the Motion to Dismiss the Initial Complaint (ECF No. 24), which NBCU and the other defendants each opposed on the grounds that Plaintiff's Motion is procedurally improper and frivolous (ECF Nos. 31, 32).

On January 19, 2018, the Court reset the hearing dates for the Motions to Dismiss and the Motion for Sanctions to February 22, 2018, so that all pending motions can be heard on the same date and time. ECF No. 30.

¹ Plaintiff's previous lawsuit was rejected by the district court (Briggs v. Blomkamp, 70 F. Supp. 3d 1155 (N.D. Cal. 2014)), and Plaintiff's appeal to the Ninth Circuit is currently pending (Briggs v. Sony Pictures Ent., 9th Cir. No. 14-17175 (filed Oct. 8, 2013)).

1 A Case Management Conference (“CMC”) is currently set for February 13, 2018. ECF
 2 No. 9. NBCU was never served with notice of this CMC; instead, Plaintiff served NBCU with
 3 notice of a CMC set for February 15 by the previously assigned magistrate judge.² On January
 4 23, 2018, Plaintiff sent a message to Greg Korn, counsel for other defendants in this action,
 5 proposing that the parties meet and confer in advance of the vacated February 15 CMC.
 6 Charney Decl. Ex. A. NBCU’s counsel proposed that the parties stipulate to move the CMC to
 7 12 days after the hearing on the defendants’ dispositive Motions to Dismiss, in accordance with
 8 this Court’s Civil Standing Order, ¶ 12. Id. Plaintiff rejected this proposal without providing a
 9 reason. Id.

10 Counsel for NBCU then informed Plaintiff and Mr. Korn that it intended to file the
 11 instant motion to continue the CMC. Id. In doing so, NBCU’s counsel provided a summary of
 12 the grounds on which this Motion is made, including that 1) fruitful case management
 13 discussions are impossible in light of the unintelligibility of the FAC and, 2) judicial economy
 14 will be served by deferring case management procedures until after resolution of the Defendants’
 15 Motions to Dismiss the FAC. Id. In the same e-mail, Plaintiff was invited to meet and confer
 16 concerning the instant Motion, and to identify any grounds for objection to the instant Motion.
 17 Id. Plaintiff has not responded to NBCU’s email attempting to meet-and-confer regarding this
 18 Motion. Id. NBCU has been informed by counsel for other defendants in this matter that they
 19 plan to join this Motion. Charney Decl. ¶ 3.

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 25 ² This case was initially assigned to Magistrate Judge Beeler, who set a Case Management
 26 Conference for February 15, 2018. ECF No. 2. On November 28, 2017, the case was reassigned
 27 to this Court, the Honorable Judge Chhabria presiding, and the Case Management Conference
 28 was rescheduled for February 13, 2018. ECF No. 9. NBCU was not served with the Summons
 and Complaint until December 7, 2017. Declaration of Brendan N. Charney (“Charney Decl.”),
 ¶ 4. In serving NBCU, Plaintiff did not include the Notice from this Court rescheduling the
 CMC for February 13, 2018. Id.

III.
GOOD CAUSE EXISTS TO EXTEND THE CASE MANAGEMENT SCHEDULE.

A. The Unintelligible FAC Does Not Permit A Meaningful Case Management Conference.

Northern District of California Local Rule 16-2(d) provides that “a party, including a party added later in the case, may seek relief from an obligation imposed by Fed. R. Civ. P. 16 or 26 or the Order Setting Initial Case Management Conference.” In accordance with this Court’s Civil Standing Order, such a motion must be filed no later than 72 hours before the case management conference. Civil Standing Order at ¶ 13.

The obligations imposed in connection with Case Management Procedures in this District are substantial, and depend on the parties’ basic understanding of the legal and factual nature of the claims. For instance, in advance of a case management conference, the parties must meet and confer and then file a joint case management statement that addresses 21 separate items including the “principal factual issues in dispute”; the scope of discovery and initial disclosures; preservation of “evidence relevant to the issues reasonably evident in this action”; identification of discovery and motions that may position the parties to negotiate a resolution; and the schedule for the case, including dates of anticipated dispositive motions and discovery cutoff, and the length of trial. Standing Order For All Judges Of The Northern District Of California, Contents Of Joint Case Management Statement (Jan. 17, 2017), available at http://www.cand.uscourts.gov/filelibrary/373/Standing_Order_All_Judges_1.17.2017.pdf.

As NBCU argues in its Motion to Dismiss the FAC, however, Plaintiff’s pleadings are woefully unintelligible, rendering a meaningful discussion about any of these topics impossible.

First, it is not clear what factual issues are in dispute, because Plaintiff’s theory of liability against NBCU is incoherent, and the purported causes of action are founded on a stream-of-consciousness narrative of innuendo and non-sequitur. As best as NBCU can glean from the FAC, Plaintiff seems to suggest that NBCU is subject to liability because it worked with prominent talent agent Ari Emanuel – but the FAC completely fails to state any facts showing what NBCU did wrong, or how its conduct harmed Plaintiff. See, e.g., FAC at ¶¶ 1, 24 (“Def

Emanuel cultivated unethical relationships with Universal Pictures”), 26, 28 (“Def Emanuel traveled to New Jersey to congratulate President-elect Trump. Emanuel is also President Trump’s former talent agent. Predictably, The Apprentice (starring Trump) was broadcast on NBCUniversal”), 32 (“likely on the order of Def Ari Emanuel, Def Wiczuk was hired by Universal Pictures as Vice President of Productions”), 40, 43, 44, 47, 55, 57, 59, 61, 63, 64, 80-83, 91, 92, 100-102, 115, 122, 125, 133 (“Universal Pictures, who would produce any film Def Emanuel suggested”), 135, 140, 141, 227, 230.

NBCU cannot engage in a meaningful conference about the scope of discovery under Federal Rule of Civil Procedure 26(b)(1), because it is impossible to conceive what evidence might be relevant to the bizarre and disjointed conspiracy theory set forth in the FAC. See id. For similar reasons, the parties cannot identify what evidence to preserve. Nor is NBCU able to identify any witnesses or documents connected to Plaintiff’s illusory claims for purposes of initial disclosures under Federal Rule of Civil Procedure 26(a)(1).

Second, because it is impossible to tie the FAC’s unintelligible factual claims to legal issues, it is not possible to meaningfully discuss settlement or alternative dispute resolution, anticipate additional dispositive or procedural motions, nor to estimate the length of trial. For this reason alone, the CMC should be continued until the Court has had a chance to rule on NBCU’s pending Motion to Dismiss. In the unlikely event that Plaintiff is able to demonstrate the ability to amend his Complaint to state a viable claim against NBCU, the CMC should be rescheduled for no earlier than June 12, 2018. This would give Plaintiff an opportunity to attempt to cure the FAC’s failure to state a claim against NBCU, and give NBCU adequate time to move to dismiss that amended pleading if warranted and for that motion to be heard.

B. Continuing The CMC Will Serve Judicial Economy And Keep Discovery-Related Procedures Proportional To The Needs of the Case.

It is simply unnecessary to engage in detailed case management procedures when the case may be resolved by a pending dispositive motion. Indeed, this Court’s own Civil Standing Order recognizes the propriety of parties cooperatively stipulating to defer case management until a dispositive motion is heard. Civil Standing Order, ¶ 12. Plaintiff, however, refused this

1 common measure, adding to a streak of vexing conduct that already has multiplied costs well
2 beyond the needs of this case.

3 Indeed, to prevent discovery and related procedures from imposing greater burdens than
4 the needs of the case justify, the Federal Rules of Civil Procedure were recently amended to limit
5 discovery to a manner “proportional to the needs of the case.” Fed. R. Civ. Pro. 12(b)(1), (2).
6 As one district court recently observed, “proportionality can best be achieved through an iterative
7 approach as the pretrial process evolves and the parties' claims and defenses come into sharper
8 focus.” Witt v. GC Services Limited Partnership, 307 F.R.D. 554, 561 (D. Colo., 2014). Here,
9 continuing the CMC until after a dispositive hearing will permit the parties to either resolve the
10 case prior to launching into a discovery plan on vaporous claims, or give Plaintiff an opportunity
11 to amend his complaint to state a viable, understandable claim against NBCU, if he can state
12 such a claim.

13 NBCU already has incurred expenses that are disproportionate, given the fact that
14 Plaintiff's claim against NBCU are baseless and illogical. This Court had not even had a chance
15 to consider the Motion to Dismiss the initial Complaint when Plaintiff, in an attempt to confer
16 federal jurisdiction, amended to add copyright claims that attempt to revive Plaintiff's failed
17 Copyright lawsuit. See ECF No. 27 at 2-3, 7-11; ECF No. 26 at 4-7. Plaintiff then brought a
18 frivolous motion that seeks to sanction defense counsel for raising jurisdictional defects in the
19 Complaint, although Plaintiff himself concedes that he failed to properly allege subject matter
20 jurisdiction in his original Complaint. ECF No. 32. At minimum, the Court should have an
21 opportunity to address the pending Motions to Dismiss the FAC before the parties are forced to
22 embark on an expensive and quixotic quest to fit the perplexing allegations of the FAC into a
23 case management plan.

24 In short, continuing a CMC pending a dispositive motion is generally appropriate to
25 preserve judicial economy; here it is crucial to keep the costs of this case from further ballooning
26 out of proportion to its needs.

**IV.
PROPOSED REVISED CASE MANAGEMENT SCHEDULE.**

NBCU respectfully proposes the following revised case management schedule (including relevant non-case-management events for reference):

Date	Event	Governing Rule
Feb. 22, 2018	Date of Hearing on Defendants' Motions to Dismiss and Plaintiff's Motion for Sanctions.	N/A
Mar. 8, 2018	Proposed last day for Plaintiff to file second amended complaint (<i>if</i> Motion to Dismiss granted with leave to amend).	Fed. R. Civ. P. 15(a)(2)
Mar. 22, 2018	Proposed last day for Defendants to respond to second amended complaint (if applicable).	Fed. R. Civ. P. 15(a)(3)
May 3, 2018	Proposed hearing date for motion to dismiss second amended complaint (if applicable).	Fed. R. Civ. P. 15(a)(3)
May 22, 2018	Proposed last day to: <ul style="list-style-type: none"> Meet and confer concerning initial disclosures, discovery plan, case scheduling, and other case management issues; File ADR Certification; and, File Stipulation to ADR Process or Notice of Need for ADR Phone Conference. 	Fed. R. Civ. P. 26(f); ADR L.R. 3-5; Civil L.R. 16-8(b)
June 5, 2018	Proposed last day to: <ul style="list-style-type: none"> File Rule 26(f) Report and Case Management Statement; and, Make initial disclosures. 	Fed. R. Civ. P. 26(a)(1); Civil L.R. 16-9
June 12, 2018	Proposed date of Initial Case Management Conference.	Civil L.R. 16-10

**V.
CONCLUSION**

It would be fruitless to force the parties to spend time meeting and conferring to craft a detailed case management statement when the essential facts and legal theories underlying the operative pleading are unintelligible. Moreover, given that both sets of defendants have filed dispositive Motions to Dismiss, continuing the CMC will serve judicial economy and prevent the expense of this action from further exceeding what is proportional to the needs of the case. For these reasons, NBCU respectfully requests that the Court grant relief from case management obligations by continuing the CMC and related deadlines as proposed above.

DATED: January 30, 2018

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